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July 8, 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 - 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 94-129

Dear Ms. Salas:

On July 7, 1999, the undersigned, accompanied by David Gusky and Stephen D. Trotman, Executive Vice President and Vice President - Industry Relations, respectively, of the Telecommunications Resellers Association ("TRA"), met with Chief and Staff of the Enforcement Division of the Common Carrier Bureau to discuss the Commission's Notice of Proposed Rulemaking, FCC 98-334, in the above-referenced docket. Materials distributed at the meeting are attached hereto.

Respectfully submitted,



Charles C. Hunter
General Counsel
Telecommunications Resellers Association

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TELECOMMUNICATIONS RESELLERS ASSOCIATION

CC DOCKET No. 94-129

Implementation of Subscriber Carrier Selection
Change Provisions of Telecommunications Act of 1996

Policies and Rules Concerning Unauthorized
Changes of Consumers' Long Distance Carriers

Ex Parte Presentation

July 7, 1999

TELECOMMUNICATIONS RESELLERS ASSOCIATION

CC DOCKET No. 94-129

The Telecommunications Resellers Associations and Its Members:

- √ More than 800 entities engaged in, or providing products and services in support of, telecommunications resale
- √ Largest association of competitive carriers, including majority of IXCS and competitive LECs
- √ Providing long distance, local exchange, international, wireless, Internet, enhanced and other services
- √ Small to mid-sized carriers serving primarily small business and residential customers
- √ "Switchless" and switched- and facilities-based providers

TELECOMMUNICATIONS RESELLERS ASSOCIATION

CC DOCKET No. 94-129

The Record in This Proceeding is Not Adequate to Support
A Mandatory CIC or Psuedo-CIC Requirement

√ Sources of slamming complaints have not been fully identified, much less
quantified

- Intentional Slams
- Submitting Carrier Mistake
- Customer Confusion
- Consumer Fraud
- Miscommunication/Misunderstanding
- Executing Carrier Mistake
- Buyer's Remorse
- Executing Carrier Manipulation

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CC DOCKET No. 94-129

The Record in This Proceeding is Not Adequate to Support
A Mandatory CIC or Psuedo-CIC Requirement (cont'd.)

√ Is "soft slamming" a significant problem?

- The percentage of slamming complaints which suggest "soft slamming" is unknown
- Many "soft slamming" complaints result from customer confusion
- Carrier concerns regarding "soft slamming" are driven by an understandable desire to minimize mistaken slamming complaints

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CC DOCKET No. 94-129

The Record in This Proceeding is Not Adequate to Support
A Mandatory CIC or Psuedo-CIC Requirement (cont'd.)

- √ Logic suggests that "soft slamming" is a relatively infrequent occurrence
 - A "soft slam" requires one of three scenerios
 - A network services provider slams a customer of a carrier reselling its services
 - A resale carrier slams a customer of its network services provider
 - A resale carrier slams a customer of another carrier reselling the services of the same network services provider
 - "Soft slams" can only be camouflaged in conjunction with LEC billing, limiting potential targets to residential and very small business users

TELECOMMUNICATIONS RESELLERS ASSOCIATION

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The Record in This Proceeding is Not Adequate to Support
A Mandatory CIC or Psuedo-CIC Requirement (cont'd.)

- √ Commission data suggests that “soft slamming” is not a significant problem
 - In 1998, less than 40 carriers were responsible for 85% of slamming complaints, with 4 carriers accounting for more than 45%
 - Conservatively assuming 1,000 IXC's, the remaining carriers averaged less than 2 slams apiece
 - More than 75% of the 40 carriers responsible for 85% of slamming have CICs

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A Mandatory CIC or Psuedo-CIC Requirement Would Have a Devastating Impact on the Small Carrier Community

- √ The record confirms that the cost of deploying a CIC nationwide with a single carrier is substantial
 - TRA: \$400,00 - \$750,000; Frontier: \$500,000 - \$750,000; Sprint: \$600,000 - \$1,000,000; MCI WorldCom: more than \$500,000
 - Variables: the number/location of underlying carrier points of presence; tandem versus central office loading; individualized negotiations
 - Additional costs: regulatory expense; network reconfiguration; carrier changes (including reloading costs and carrier selection change charges); pass-through charges
 - Wild Cards: use of multiple network service providers

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A Mandatory CIC or Pseudo-CIC Requirement Would Have a Devastating Impact on the Small Carrier Community (cont'd.)

√ Assessments of adverse impacts of a mandatory CIC requirement

- Frontier: "a prohibitive entry barrier -- and swift exit ramp -- for numerous smaller resellers"
- MCI WorldCom: "a substantial barrier to entry"
- Qwest: "requiring resellers to obtain individual CICs would saddle them with significant cost and ultimately reduce the number of resellers that able to service the telecommunications marketplace"

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A Mandatory CIC or Pseudo-CIC Requirement Would Have a Devastating Impact on the Small Carrier Community (cont'd.)

- √ Other negative aspects of a mandatory CIC requirement
 - Necessary (and for smaller LECs, costly) facilities upgrades
 - CIC exhaustion and attendant industry-wide costs
 - Impact on wholesale providers
 - Second, third and fourth tier resale

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A Mandatory CIC or Pseudo-CIC Requirement Would Have a Devastating Impact on the Small Carrier Community (cont'd.)

√ Pseudo-CICs are not a viable alternative

- Resultant costs are no less substantial than those associated with a mandatory CIC requirement
- Costs imposed on both LECs and IXC network services providers
- Primary impact on billing systems; secondary impact on switching systems
- Costs will be passed through to resale carriers

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CC DOCKET NO. 94-129

Public Policy Considerations Weigh Heavily Against Adoption of A Mandatory CIC or Pseudo-CIC Requirement (cont'd.)

√ Recommendations

- Evaluate impact of "Truth-in-Billing" principals and "Carrier-Change" safeguards
- Undertake an analysis of the extent and sources of slamming
- Refrain from imposing either a mandatory CIC or a mandatory Pseudo-CIC requirement
- Utilize an independent third-party administrator to centralize receipt and resolution of slamming complaints

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Public Policy Considerations Weigh Heavily Against Adoption of A Mandatory CIC or Pseudo-CIC Requirement

- √ Congress has endorsed resale as a means of fostering competition in the telecommunications marketplace
- √ Congress has directed the Commission to eliminate, not erect, barriers to participation by small business in the telecommunications industry
- √ The Commission has repeatedly acknowledged the pro-competitive impacts of resale
- √ Consumers benefit from the increased competition generated by resale carriers

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Comparable Public Policy Considerations Argue Against Adoption of A Financial Qualification Requirements

- √ Congress considered and rejected imposition of a surety bond or other financial qualifications requirement
- √ A financial qualifications requirement runs counter to Congressional directives to eliminate barriers to small business participation in the telecommunications industry
- √ A financial qualifications requirement which tied up significant assets – *e.g.*, a surety bond or letter of credit – would hinder competitive efforts of small carriers
- √ Registration requirements, absent a financial qualifications component, would be a permissible approach